

MEMO ENDORSED

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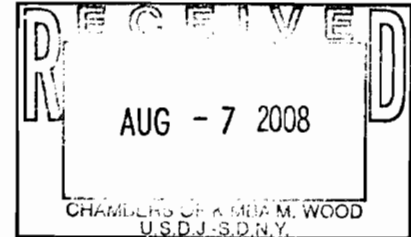
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August 6, 2008

VIA FACSIMILE & HAND DELIVERY

Honorable Kimba M. Wood
United States District Chief Judge
United States District Court for the
Southern District of New York
500 Pearl Street, Room 1610
New York, New York 10007



**Re: *Takeda Pharmaceutical Company Limited et al. v. Mylan, Inc. et al.*,
Civil Action No. 08 CV 6999 (S.D.N.Y.)**

Dear Chief Judge Wood:

This firm, and Rakoczy Molino Mazzochi Siwik LLP, write on behalf of Mylan, Inc., Mylan Pharmaceuticals, Inc. and UDL Laboratories, Inc. (collectively, "Mylan"), Defendants to the above-referenced litigation recently filed with the Court on or about August 6, 2008 ("the Current Litigation"). We are writing to Your Honor in your capacity as a member of the Assignment Committee.

It is Mylan's understanding that Plaintiffs have designated the Current Litigation as related to a civil case already pending before the Court, namely, Civil Action No. 03 CV 8253 pending before the Honorable Judge Denise Cote ("the already-pending litigation"). Mylan respectfully objects to Plaintiffs' related case designation and their attempt to have this matter assigned to the Honorable Judge Denise L. Cote.

The Current Litigation will involve, among other things, (i) a different drug product, (ii) a different Abbreviated New Drug Application ("ANDA"); (iii) a different New Drug Application ("NDA"); and (iv) different defenses than those involved in the already-pending litigation. More specifically, the Current Litigation will focus on Mylan's recently-filed ANDA No. 90-406 for a combination product that Takeda sells under the trade-name Actoplus Met. The product described in Mylan's ANDA No. 90-406 is entirely different and separate from the product described in the ANDA at issue in the already-pending litigation. Similarly, the New Drug Application for Actoplus Met, at issue in the Current Litigation (NDA No. 21-842, approved on August 29, 2005), is different than the New Drug Application for Actos (NDA No. 21-073, approved on July

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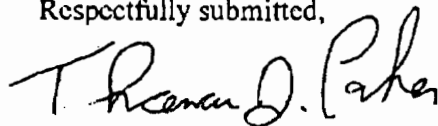
15, 1999), at issue in the already-pending litigation. As a result, the infringement analysis, defenses, document discovery, and expert discovery in the Current Litigation will likely be dramatically different than in the already-pending litigation. Consequently, assigning the Current Litigation as a "related case" to the already-pending litigation will likely not conserve judicial resources as anticipated under Rule 15 of the Rules for the Division of Business Among District Judges. This is true even though the patents at issue in the Current Litigation may be the same as those in the already-pending litigation.

Additionally, as Takeda knew when designating the Current Litigation as "related," Judge Cote recently found in Takeda's favor in the already-pending litigation with respect to a patent not at issue in the Current Litigation. Judge Cote then went further, finding the case against Mylan and its co-defendant to be exceptional and awarding Takeda nearly \$17 million in fees and expenses. Mylan's appeal of the exceptional case finding and fee award currently are on appeal to the U.S. Court of Appeals for the Federal Circuit.

Mylan therefore respectfully objects to Plaintiffs' related case designation and requests that the Court not consider the Current Litigation as related to the already-pending litigation.

*Denied, without prejudice.
Pursuant to this Court's
rules, Judge Cote will decide,
in the first instance,
whether these cases are
related.*

Respectfully submitted,



Thomas J. Parker

*SO ORDERED. 8-8-08
Kimba M. Wood
U.S.D.J.*

TJP:mm

cc: Honorable Loretta A. Preska (via facsimile)
Honorable Deborah A. Batts (via hand delivery)
Honorable Denise L. Cote (via hand delivery)
Anthony J. Viola, Attorney for Plaintiffs (via facsimile)
David G. Conlin, Attorney for Plaintiffs (via facsimile)
William A. Rakoczy, Attorney for Defendants (via facsimile)
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